Planning Department.

PLANNING DEPARTMENT
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Admin
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LOCAL PLANS
DEV/CO

THE EASTLEIGH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971-1974

TREE PRESERVATION ORDER NO. 54

LAND WEST OF HURSLEY ROAD, CHANDLERS FORD

The Eastleigh Borough Council (in this Order called "the authority") in pursuance of the powers conferred in that behalf by Sections 60 and 61 of the Town and Country Planning Act 1971 (as amended by Section 10(1) of the Town and Country Amenities Act 1974) and subject to the provisions of the Forestry Act 1967, hereby make the following Order:-

1. In this Order :-

"The Act" means the Town and Country Planning Act 1971; "owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; a lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and "the Secretary of State" means the Secretary of State for the Environment.

2. Subject to the provisions of this Order and to the exemption specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purposes of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application and shall by reference if necessary to a plan specify the trees to which the application relates and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit or may refuse consent :

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area and

shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuses consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied :-

(a) that the refusal or condition is in the interests of good forestry; or

(b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

6. (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless :-

(a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act; or

(b) the authority with the approval of the Secretary of State dispense with replanting

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provisions of this Order and Section 175 of the Act, replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to :-

(a) species;

(b) number of trees per acre;

(c) the erection and maintenance of fencing necessary for protection of the replanting;

(d) the preparation of ground, draining, removal of brushwood, lop and top; and

(e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of this Order or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction relates to land in respect of which byelaws made by a water authority since 31st March, 1974 by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1st April, 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, or by the Greater London Council in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works restrict or regulate the planting of trees, notify the applicant or the owner of the land as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the water authority, the drainage board or the Greater London Council under these byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to the Order being provisions of Part III of the Act, adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage :

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article, account shall be taken of :-

(a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 60 of the Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act 1943 or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932; and

(b) any injurious affection to any land of the owner which would result from felling of the trees the subject of the claim.

11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by addressing the claim to the offices of the authority and leaving it at or sending it by post to the principal office of the authority.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or of the Secretary of State, as the case may be or where an appeal has been made to the Secretary of State against the decision of the authority, from the date of the decision of the Secretary of State on the appeal.

12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 179 of the Act.

13. The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on the date on which this Order is made.

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £400 or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £200 on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 60(6) of the Town and Country Planning Act 1971 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than five days previous notice of the removal etc., should be given to the authority to enable the latter to decide whether or not to dispense with the requirement.

14. It is hereby directed that the provisions of Section 61 of the Act shall apply to this Order and that this Order shall take effect provisionally as from the date on which the Order is made and shall continue in force provisionally until the expiration of a period of six months beginning with that date or until the date on which the Order is confirmed or, in the case of an Order which can be confirmed only by the Secretary of State, the date on which he notifies the authority that he does not propose to confirm it, whichever first occurs.

FIRST SCHEDULE

Trees Specified Individually

(encircled in black on the map)

No. on Map	Description	Situation
T.1	Alder	Approximately 300ft. N.E. of railway line and approximately 750ft. S.E. of Baddesley Road.
T.2	Ash	Adjacent to Hursley Road between St. Boniface Hall and 32 Hursley Road.
T.3	Silver Birch	On boundary of 32 Hursley Road approximately 150ft. back from Hursley Road.
T.4	Sycamore	North western corner of St. Boniface Hall site.

Trees Specified by References to an Area

(within a dotted black line on the map)

No. on Map	Description	Situation

NONE

Groups of Trees

(within a broken black line on the map)

No. on Map	Description	Situation
G.1	2 Oak	Approximately 350ft. N. of access road to Hiltonbury Farm, approximately 550ft. S. of Baddesley Road and approximately 350ft. W. of Hursley Road.
G.2	8 Oak	Immediately N. of access road to Hiltonbury Farm, approximately 500ft. W. of Hursley Road.
G.3	3 Ash, 2 Oak, 1 Silver Birch	Approximately 600ft. N.E. of railway line and approximately 800ft. S.E. of Baddesley Road.
G.4	17 Oak, 1 Ash, 1 Cherry	Line of trees running N.E. from the railway line and Ramalley Copse.
G.5	14 Oak	Along rear boundaries of 144, 146 and 148 Hursley Road.
G.6	5 Oak and 1 Cherry	Immediately N. of 144, 146 and 148 Hursley Road.
G.7	25 Ash	Along S. boundary of Ramalley Cemetery.

Woodlands

(within a continuous black line on the map)

No. on Map	Description	Situation
W.1	All trees of whatever species	Immediately S.E. of Baddesley Road and E. and N.E. of Monks Brook.
W.2	All trees of whatever species	Immediately S.E. of Baddesley Road. Opposite Beechwood Crescent.
W.3	All trees of whatever species	Immediately W. of Hursley Road commencing approximately 450ft. S. of Baddesley Road and finishing approximately 700ft S. of Baddesley Road.
W.4	All trees of whatever species	Immediately W. of Hursley Road and immediately N. of the access road to Hiltonbury Farm.
W.5	All trees of whatever species	Commencing approximately 300ft. E. of Hursley Road and finishing at railway line. Immediately N. of Ramalley Cemetery.
W.6	All trees of whatever species	Immediately adjacent to railway line and approximately 150ft. S.W from Ramalley Cemetery.
W.7	All trees of whatever species	Approximately 350ft. S.W. of Hursley Road at its junction with Brownhill Road and approximately 300ft. N.E. of the railway line.
W.8	All trees of whatever species	Immediately adjacent to the railway line on the E. side and approximately 500ft. W. of St. Boniface Hall.

SECOND SCHEDULE

This Order shall not apply as to require the consent of the authority to :-

(1) The cutting down of any tree on land which is subject to a forestry dedication covenant where

(a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;

(b) the cutting down is in accordance with a plan of operations or other working plan approved by the Forestry Commission under such deed.

(2) The cutting down of any tree which is in accordance with a plan of operations or other working plan approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant.

(3) The cutting down, topping or lopping of a tree

(a) in pursuance of the power conferred on the Post Office by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 21 of the Post office Act 1969 or by or at the request of the Post Office where the land in which the tree is situated is operational land as defined by the Post Office Operational Land Regulations and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking

(b) by or at the request of

(i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;

(ii) an electricity board within the meaning of the Electricity Act 1947 where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line;

(iii) a water authority established under the Water Act 1973, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930 or the Greater London Council where the tree interferes or would interfere with the exercise of any of the functions of such water authority, drainage board or Council in relation to the maintenance, improvement or construction of water courses or of drainage works; or

(iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations

(c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act or deemed to have been granted for any of the purposes of that Part;

(d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act 1971 as adapted and modified to apply to this Order.

33. Effect of consents under the Order. (1) Without prejudice to the following provisions as to the revocation or modification of consents any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except insofar as the consent otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.

35. Reference of applications to the Secretary of State. (1) The Secretary of State may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority

(2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section, the Secretary of State shall if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) The decision of the Secretary of State on any application referred to him under this section shall be final.

36. Appeals against decisions. (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions or where any certificate

or direction is given by the authority, the applicant, if he is agrrieved by their decision on the application or by any such certificate, or the person directed, if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow.

(3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Secretary of State shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(5) The decision of the Secretary of State on any appeal under this section shall be final.

37. Appeal in default of decision. Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either :-

(a) give notice to the applicant of their decision on the application; or

(b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 35 above;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period as the case may be.

45. Power to revoke or modify the consent under the Order. (1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.

(2) Subject to the provisions of Sections 46 and 61 of the Act, an Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where an authority submit an Order to the Secretary of State for his confirmation under this section, the authority shall furnish the Secretary of State with a statement for their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected and on any other person who in their opinion will be affected by the Order and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Secretary of State, before confirming the Order, shall afford to that person and to the authority, an opportunity of appearing before and being heard by, a person appointed by the Secretary of State for the purpose.

(4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed:

Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

(5) Where a notice has been served in accordance with the provisions of sub-section (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted shall be carried out pending the decision of the Secretary of State under sub-section (2) of this Section.

46. Unopposed revocation or modification of consent. (1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under Section 45 of the Act revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

(2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State such Order may take effect by virtue of this section and without being confirmed by the Secretary of State

(3) The authority shall also serve notices to the same effect on the persons mentioned in sub-section (1) above.

(4) The authority shall send a copy of any advertisement published under sub-section (2) above to the Secretary of State not more than three days after the publication.

(5) If within the period referred to in sub-section 2(a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid the Secretary of State has not directed that such Order

be submitted to him for confirmation, such Order shall at the expiration of the period referred to in sub-section (2)(b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by Section 45 of the Act.

(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III or Part IV or Part V of the Act.

THE COMMON SEAL of
THE EASTLEIGH BOROUGH COUNCIL
was hereunto affixed this
eleventh day of
December of nineteen
hundred and seventy eight
in the presence of

(Sgd.) P.M. Inge

Mayor

(Sgd.) R.W. Read

Director of Administration and Solicitor

Dated 11th December 1978

EASTLEIGH BOROUGH COUNCIL

Tree Preservation Order No. 54

LAND WEST OF HURSLEY ROAD,
CHANDLERS FORD.

R. W. READ
(Director of
Administration)
Civic Offices,
Eastleigh.

T.P.O. 54. Made 11th December 1978 (with sect. 61 direction) confirmed without objection.

FIRST SCHEDULE

Trees Specified Individually

(encircled black on the map)

No. on Map	Description	Situation
T.1	Alder	Approximately 300ft. N.E. of railway line and approximately 750ft. S.E. of Baddesley Road.
T.2	Ash	Adjacent to Hursley Road between St. Boniface Hall and 32, Hursley Road.
T.3	Silver Birch	On boundary of 32, Hursley Road approximately 150ft. back from Hursley Road.
T.4	Sycamore	North western corner of St. Boniface Hall site.

Trees Specified by Reference to an Area

(within a dotted black line on the map)

No. on Map	Description	Situation
	None	

Groups of Trees

(within a broken black line on the map)

No. on Map	Description	Situation
G.1	2 Oak	Approximately 350ft. N. of access road to Hiltonbury Farm, approximately 550ft. S. of Baddesley Road and approximately 350ft. W. of Hursley Road.
G.2	8 Oak	Immediately N. of access road to Hiltonbury Farm, approximately 500ft. W.of Hursley Road.
G.3	3 Ash, 2 Oak, 1 Silver Birch	Approximately 600ft. N.E. of railway line and approximately 800ft. S.E.of Baddesley Road.
G.4	~~Row of trees~~ line of trees containing: 17 Oak, 1 Ash & 1 Cherry.	Running N.E. from the Railway line and Ramalley Copse.
G.5	14 Oak	Along rear boundaries of 144, 146 & 148, Hursley Road.

No. on Map	Description	Situation
G.6	5 Oak and 1 Cherry	Immediately N. of 144, 146 & 148, Hursley Road.
G.7	25 Ash ~~(25)~~	Along S.boundary of Ramalley Cemetery.

Woodlands

(within a continuous black line on the map)

No. on Map	Description	Situation
W.1	All trees of whatever species	Immediately S.E. of Baddesley Road and E. & N.E. of Monks Brook.
W.2	All trees of whatever species	Immediately S.E. of Baddesley Road. Opposite Beechwood Crescent.
W.3	All trees of whatever species	Immediately W. of Hursley Road; commencing approximately 450ft. S. of Baddesley Road and finishing approximately 700ft. S. of Baddesley Road.
W.4	All trees of whatever species	Immediately W. of Hursley Road and immediately N. of the access road to Hiltonbury Farm.
W.5	All trees of whatever species	Commencing approximately 300ft. E. of Hursley Road and finishing at railway line. Immediately N. of Ramalley cemetery.
W.6	All trees of whatever	Immediately adjacent to railway line and approximately 150ft. S.W. from Ramalley cemetery.
W.7	All trees of whatever species	Approximately 350ft. S.W. of Hursley Road at its junction with Brownhill Road and approximately 300ft. N.E. of the Railway line.
W.8	All trees of whatever species	Immediately adjacent to the railway line on the E. side and approximately 500ft. W. of St. Boniface Hall.


W2
G1
W3
G2
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